

AMENDMENT UNDER 37 C.F.R. § 1.114(c)
U.S. APPLICATION NO. 10/000,362
ATTORNEY DOCKET NO. Q67282

REMARKS

Claims 1-4 have been examined on their merits.

Applicants herein add new claims 5-8, which are supported by the originally filed specification and claims. Entry and consideration of the new claims is respectfully requested.

Claims 1-8 are all the claims presently pending in the application.

1. Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Lidbetter (EP 1 079 547)(hereinafter the “‘547 application”). Applicants traverse the § 102(b) rejection of claims 1-3, and insofar as the rejection might apply to new claims 5-7, for at least the reasons discussed below.

Applicants herein incorporate by reference the remarks of the Response Under 37 C.F.R. § 1.116 filed on August 9, 2005.

35 U.S.C. § 102(b) states that a person shall be entitled to a patent unless “the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States.” The ‘547 application was filed on August 25, 1999, but was not published until February 28, 2001, which is the § 102(b) date for the application. The present application was filed on December 4, 2001, which is less than one year from the § 102(b) publication date of the ‘547 application. Thus, the ‘547 application is not available as prior art under § 102(b).

Since the ‘547 application is not available as prior art under § 102(b), Applicants request that the Patent Office withdraw the § 102(b) rejection of claims 1-3.

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2. Claim 4 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over the ‘547 application in view of Horrer (U.S. Patent No. 6,321,084). Applicants respectfully traverse the § 103(a) rejection of claim 4, and insofar as the rejection might apply to new claim 8, for at least the following reasons.

Applicants herein incorporate by reference the remarks of the Response Under 37 C.F.R. § 1.116 filed on August 9, 2005.

As discussed above, the ‘547 application is not available as § 102(b) prior art. Since the ‘547 application is not available as prior art, the § 103(a) rejection based on the combination of the ‘547 application and Horrer is improper. Applicants request that the Patent Office withdraw the § 103(a) rejection of claim 4.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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